

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 4/26/13
--

-----X
DANIEL KANE, JR. et al.,

:

Plaintiffs,

: **REPORT AND RECOMMENDATION**

-against-

:

12 Civ. 4720 (MGC)(GWG)

THE ALPHAS COMPANY OF NEW YORK, INC.,

:

Defendant.
-----X

GABRIEL W. GORENSTEIN, United States Magistrate Judge

The Court held an inquest on damages pursuant to Fed. R. Civ. P. 55(b)(2) today.¹ The Court heard the testimony of two witnesses, Craig Voelker and Barry Reich. It also received into evidence two exhibits and considered other documents in the record, including the Affirmation of Milo Silberstein in Support of Plaintiff's Motion for a Default Judgment Against Defendant The Alphas Company of New York, Inc., filed April 3, 2013 (Docket # 21).

At the conclusion of the hearing, the undersigned gave an oral Report and Recommendation. Plaintiff is ordering an expedited copy of the transcript of that Report and Recommendation. As stated on the record, the undersigned concluded that defendant was liable for the following damages:

- (1) Delinquent Contributions: \$14,312.55
- (2) Withdrawal Liability: \$983,579.74
- (3) Interest: \$ 39,915.70
- (4) Liquidated Damages: \$199,578.46
- (5) Attorneys' Fees and Expenses: \$11,948.60


Accordingly, the undersigned recommends that judgment be entered against the defendant in the amount of \$1,249,335.05.

¹ Plaintiff's counsel informed the Court at the hearing that defendant was informed of the inquest hearing and elected not to attend.

**PROCEDURE FOR FILING OBJECTIONS TO THIS
REPORT AND RECOMMENDATION**

Pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure, the parties have fourteen (14) days including weekends and holidays from service of this Report and Recommendation to serve and file any objections. See also Fed. R. Civ. P. 6(a), (b), (d). Such objections (and any responses to objections) shall be filed with the Clerk of the Court, with copies sent to the Hon. Miriam Goldman Cedarbaum, and to the undersigned, at 500 Pearl Street, New York, New York 10007. Any request for an extension of time to file objections must be directed to Judge Cedarbaum. If a party fails to file timely objections, that party will not be permitted to raise any objections to this Report and Recommendation on appeal. See Thomas v. Arn, 474 U.S. 140 (1985); Wagner & Wagner, LLP v. Atkinson, Haskins, Nellis, Brittingham, Gladd & Carwile, P.C., 596 F.3d 84, 92 (2d Cir. 2010).

Dated: April 26, 2013
New York, New York


GABRIEL W. GORENSTEIN
United States Magistrate Judge